

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division**

ALLEN J. CUBBAGE)	
)	
<i>Plaintiff,</i>)	
)	
v.)	No. 5:11-cv-00046-MFU
)	
WELLS FARGO BANK, N.A.)	
SUCCESSOR-BY MERGER)	
WACHOVIA BANK, NATIONAL)	
ASSOCIATION ("WELLS FARGO"))	
)	
<i>Defendant.</i>)	
_____)	

DEFENDANT'S MOTION TO DISMISS

Defendant Wells Fargo Bank, N.A., Successor-By-Merger to Wachovia Bank, National Association ("Wells Fargo"), by counsel, pursuant to Fed. R. Civ. P. 12(b)(6), moves to dismiss Plaintiff's Complaint in its entirety for the reasons more fully set forth in the accompanying memorandum in support.

WHEREFORE, Wells Fargo respectfully requests that the Court grant its motion to dismiss Plaintiff's Complaint and enter an Order dismissing with prejudice all of Plaintiff's claims and granting whatever other legal or equitable relief the Court deems appropriate.

**WELLS FARGO BANK, N.A., SUCCESSOR-
BY-MERGER TO WACHOVIA BANK,
NATIONAL ASSOCIATION.**

By: /s/ Jon S. Hubbard
Of Counsel

Mary Catherine Zinsner, Esquire
Virginia State Bar No. 31397
S. Mohsin Reza, Esquire
Virginia State Bar No. 75347
TROUTMAN SANDERS LLP
1660 International Drive, Suite 600
McLean, VA 22102-3805
Telephone: 703-734-4334
Facsimile: 703-734-4340
mary.zinsner@troutmansanders.com
mohsin.reza@troutmansanders.com

Jon S. Hubbard, Esquire
Virginia State Bar No. 71089
Nicholas R. Klaiber, Esquire
Virginia State Bar No. 80563
TROUTMAN SANDERS LLP
1001 Haxall Point
P.O. Box 1122
Richmond, Virginia 23218-1122
Telephone: (804) 697-1406
Facsimile: (804) 698-5186
jon.hubbard@troutmansanders.com

*Counsel for Wells Fargo Bank, N.A.,
Successor-by-Merger to Wachovia Bank,
National Association.*

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

John R. Bushey, Jr., Esquire
Bryan M. Cave, Esquire
Bushey, Cave & Goff
11 South Court Street
Luray, VA 22835
Telephone: (540) 743-5161
Facsimile: (540) 743-5162

Counsel for Plaintiff

/s/ Jon S. Hubbard
Jon S. Hubbard, Esquire
Virginia State Bar No. 71089
TROUTMAN SANDERS LLP
1001 Haxall Point
P.O. Box 1122
Richmond, Virginia 23218-1122
Telephone: (804) 697-1406
Facsimile: (804) 698-5186
jon.hubbard@troutmansanders.com

*Counsel for Wells Fargo Bank, N.A.,
Successor-by-Merger to Wachovia Bank,
National Association.*